

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MARTIN J. WALSH, Secretary of Labor,
United States Department of Labor,

Petitioner,

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

- against -

2:21-mc-237 (DRH) (ST)

FIVE CORNERS FOOD, INC. d/b/a/ CROSS
ISLAND FRUITS, and JOSEPH ROSSI,
individually and as a custodian of records,

Respondents.

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HURLEY, Senior District Judge:

Presently before the Court is the Report and Recommendation of Magistrate Judge Steven Tiscione, dated February 1, 2022 (the “R&R” [DE 16]), recommending the Court (i) issue an Order to Show Cause why Respondents should not be found in contempt at a hearing to be held before the Court and, should the Court hold Respondents in contempt, (ii) impose \$250-per-diem fine until Respondents fully comply with Judge Tiscione’s February and May 2021 Orders. Judge Tiscione began, pursuant to 28 U.S.C. § 636(e), by certifying facts that set forth a prima facie case for contempt. R&R at 4–5. He then concluded that his orders were clear and unambiguous, that Respondents’ non-compliance is clear and convincing, and that Respondents have not diligently attempted to comply. *Id.* at 5–10. Judge Tiscione ended by recommending, as an appropriate remedy for Respondents’ contempt, a \$250-per-diem fine lasting until their full compliance with his February and May 2021 Orders. *Id.* at 10–12.

More than fourteen (14) days have passed since service of the R&R and no objections have been filed. Pursuant to 28 U.S.C. § 636(b) and Federal Rule Civil Procedure 72, this Court has reviewed the R&R for clear error. Having found none, the Court concurs in the R&R's reasoning and result. Accordingly,

IT IS HEREBY ORDERED THAT Respondents show cause in writing on or before April 25, 2022 as to (i) why they should not be held in contempt and (ii) why a \$250-per-diem fine lasting until compliance with Judge Tiscione's February and May 2021 Orders is inappropriate;

IT IS FURTHER ORDERED THAT Petitioner may file in writing on or before May 25, 2022 a response to Respondents' show-cause submission;

IT IS FURTHER ORDERED THAT the parties shall appear at a hearing concerning the show-case submissions on June 24, 2022 at 1:30 PM in Courtroom 930, Alfonse D'Amato United States Courthouse, 100 Federal Plaza, Central Islip, New York 11722;

IT IS FURTHER ORDERED THAT Petitioner shall serve forthwith a copy of this order and an additional copy of the R&R upon Respondents.

SO ORDERED.

Dated: Central Islip, New York
March 23, 2022

s/ Denis R. Hurley
Denis R. Hurley
United States District Judge